MONTANA LEGISLATIVE HISTORY

Chapter 65 1981

Bill H _____ S 158 Original bill & history ✓ C

H. Committee on Agriculture			S. Committee on Agriculture		
Hearing Date(s)	Mar 02	✓ C	Hearing Date(s)	Jan 21	✓ C
		C		Jan 25	✓ C
		C			C
		C			C
Date Out	Mar 02	✓ C		Jan 25	✓ C

BEST COPY AVAILABLE

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE BILL NO. 158

INTRODUCED BY GRAHAM

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

IN THE SENATE

January 16, 1981	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 29, 1981	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
January 30, 1981	Bill printed and placed on members' desks.
January 31, 1981	Second reading, do pass.
February 2, 1981	Correctly engrossed.
February 3, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

February 4, 1981	Introduced and referred to Committee on Agriculture.
March 5, 1981	Committee recommend bill be concurred in. Report adopted.
March 6, 1981	Motion pass consideration to 51st legislative day.
March 7, 1981	Second reading, concurred in.
March 10, 1981	Third reading, concurred in. Ayes, 96; Noes, 3.

IN THE SENATE

ch 11, 1981

Returned from House. Concurred in. Sent to enrolling.

Reported correctly enrolled.

HEARING: 2/3
REPORT: BE CONCURRED IN, 2/3
2ND READING: 2/6 PASSED FOR THE DAY.
2ND READING: 2/7 YEAS: 77; NAYS: 13
3RD READING: 2/11 YEAS: 94; NAYS: 3

RETURNED TO SENATE: 2/11
TRANSMITTED TO GOVERNOR:
ACTION: SIGNED, 2/24/81
CHAPTER 12

159 -- GRAHAM -- REQUIRING A PERMIT AND HEALTH CERTIFICATE PRIOR TO THE IMPORTING OF CERTAIN ANIMALS' SEMEN OR BIOLOGICS.
INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE: 1/16
HEARING: 1/23
REPORT: 1/29, DO PASS AS AMENDED -- STATEMENT OF INTENT ATTACHED.
2ND READING: 1/31, DO PASS
3RD READING: 2/3, YEAS: 44; NAYS: 3

TRANSMITTED TO HOUSE: 2/3
REFERRED TO COMMITTEE ON AGRICULTURE: 2/4
HEARING: 3/2
REPORT: 3/2, BE CONCURRED IN
2ND READING: 3/6, ON MOTION, PASSED FOR THE DAY.
2ND READING: 3/7, YEAS: 81; NAYS: 0
3RD READING: 3/10, YEAS: 96; NAYS: 1

RETURNED TO SENATE: 3/10
TRANSMITTED TO GOVERNOR: 3/13/81
ACTION: 3/16, SIGNED
CHAPTER 65

160 -- M. ANDERSON -- AMENDING 87-4-101 TO DEFINE THE SCOPE OF LIABILITY FOR OUTFITTERS...
INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY: 1/16
HEARING: 1/26, CANCELLED
RE-REFERRED TO COMMITTEE ON FISH AND GAME: 1/21
HEARING: 2/3
REPORT: 2/13, DO PASS
2ND READING: 2/16, YEAS: 43; NAYS: 4
3RD READING: 2/18, YEAS: 41; NAYS: 8

TRANSMITTED TO HOUSE: 2/18
REFERRED TO COMMITTEE ON JUDICIARY: 2/19
HEARING: 3/9
REPORT: 3/10, BE CONCURRED IN, AS AMENDED
2ND READING: 3/14, YEAS: 68; NAYS: 7
3RD READING: 3/17, YEAS: 82; NAYS: 14

RETURNED TO SENATE WITH AMENDMENTS: 3/17
2ND READING: 3/20, BE CONCURRED IN
3RD READING: 3/23, YEAS: 48; NAYS: 1

TRANSMITTED TO GOVERNOR: 3/26/81
ACTION: 3/30, SIGNED
CHAPTER 170

161 -- M. ANDERSON -- AMENDING 72-16-304 TO INCREASE THE INSURANCE EXEMPTION FOR INHERITANCE TAX PURPOSES TO 100,000.

LC 0753/01

BILL NO. 158

INTRODUCED BY

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE APPLICATION FOR AND THE POSSESSION OF A PERMIT AND A HEALTH CERTIFICATE, UNLESS THE CERTIFICATE IS WAIVED, BEFORE CERTAIN ANIMALS, ANIMAL SEMEN, OR ANIMAL BIOLOGICS MAY BE IMPORTED INTO MONTANA; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This part may be cited as the "Animal Importation Permit and Health Certificate Act of 1981".

Section 2. Definitions. As used in this part, the following definitions apply:

(1) "Animals" means livestock, dogs, cats, rabbits, rodents, game animals, fur-bearing and wild animals, and poultry and other birds.

(2) "Biologics" means medicinal preparations made from living organisms and their products. It includes but is not limited to serums, vaccines, antigens, and antitoxins.

(3) "Department" means the department of livestock.

(4) "Health certificate" means a legible record written on an official health certificate form of the state of origin or on an equivalent form of the U.S. department of agriculture attesting that the animals, animal semen, or animal biologics described thereon have been visually inspected by a federally accredited veterinarian and found to meet the entry requirements of the state of Montana.

(5) "Livestock" means cattle, horses, mules, asses, sheep, swine, and goats.

(6) "Permit" means an official document issued by the department after proper application that allows the movement of animals, animal semen, or animal biologics into Montana.

(7) "Poultry" means domesticated birds, including but not limited to chickens, turkeys, ducks, geese, guinea fowl, pigeons, and pheasants.

Section 3. Documents required for importation -- exemption. (1) Except as provided in subsection (4), in all cases, no animal, animal semen, or animal biologic may be brought into the state without a permit and also a health certificate. The health certificate, but not the permit, may be waived by the department as provided in subsection (5).

(2) The requirements of subsection (1) apply regardless of species, breed, sex, class, age, point of origin, place of destination, or purpose of movement.

(3) All required documents must be attached to the waybill or be in possession of the driver of the

INTRODUCED BILL
SB 158

transporting vehicle or of the person in charge of the animals. When a single permit or health certificate is issued for animals being moved in more than one vehicle, the driver of each vehicle shall have in his possession a copy of the permit and, where applicable, a health certificate.

(4) Animals, animal semen, or animal biologics being moved through the state with no intent to unload or deliver in the state are exempted from this part. In an emergency situation, such transitory cargo may be unloaded in compliance with the quarantine rules promulgated by the department.

(5) A waiver of the requirement for a health certificate shall be based upon evidence that there will be no significant danger to the public health if the exemption is granted.

Section 4. Quarantine for illegal entry -- liability for expenses. (1) Animals, animal semen, or animal biologics which enter the state of Montana without the required importation papers or in violation of any rules of the department shall be held in quarantine at the risk of the owner.

(2) The quarantine may be released only after the department has been satisfied, by appropriate means, that the animals, animal semen, or animal biologics under quarantine meet the requirements of law and the rules of the

department.

(3) The owner of animals, animal semen, or animal biologics quarantined under this part is liable for all department expenses resulting from that quarantine except the expense of the salary of the supervising officer representing the department. Expenses include, but are not limited to, the expense of inspecting, testing, supervision of quarantine, supervision of dipping, supervision of disinfection, supervision of treatment, and laboratory testing.

Section 5. Lien resulting from quarantine -- foreclosure of lien. (1) In accordance with the provisions of 81-2-109, the expenses of quarantine detailed in [section 4] are a lien on the animals, semen, or biologics and the department may retain possession of them until the charges and expenses are paid. The lien is dependent on possession and may be foreclosed in the name of the agent of the department by sale at public auction of the animals, semen, or biologics or as much of them as may be necessary to pay the expenses.

(2) Posting notice for 10 days at three public places in the county is required prior to auction. The lien may also be foreclosed by filing an action against the owner of the property to recover the amount of charges and expenses in a court of competent jurisdiction.

Section 6. Consignment requirements. (1) All animals, animal semen, or animal biologics brought into Montana, other than transitory cargo, must be consigned to or in the care of a person, entity, or authorized agent of either located in Montana.

(2) The person, entity, or authorized agent must notify the department of its intent to receive any animals, animal semen, or animal biologics and is responsible for acquiring all required permits and ensuring that they are accompanied by all required health certificates.

(3) No person consigning, transporting, or receiving animals, animal semen, or animal biologics into Montana may authorize, order, or carry out any diversion of them or any portion thereof to a destination or consignee other than as set forth on the permit or health certificate without first obtaining written permission from the department.

Section 7. Department rulemaking power. The department may promulgate, administer, and enforce rules necessary to implement this part.

Section 8. Penalty. A person convicted of violating [this act] shall be fined not more than $500, be imprisoned in the county jail for a term not to exceed 6 months, or both.

Section 9. Codification instruction. This act is intended to be codified as a new part in Title 81, chapter

2, and the provisions of Title 81, chapter 2, part 1, apply to this act.

Section 10. Effective date. This act is effective on passage and approval.

-End-

SB 158

STATEMENT OF INTENT

SENATE BILL 158

Senate Agriculture, Livestock and Irrigation Committee

A Statement of Intent is required for this bill because it delegates rulemaking authority to the Department of Livestock in Section 8.

It is the intent of this bill that the Department maintain its present rules, and update them when necessary, regarding the importation of animals, animal semen, and animal biologics. However, these rules should be reviewed to ensure that they are in compliance with this bill and to eliminate any redundancy created by passage of this bill.

First adopted by the Senate Agriculture, Livestock and Irrigation Committee on the 28th day of January 1981.

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK & IRRIGATION
MONTANA STATE SENATE

January 23, 1981

The Agriculture, Livestock & Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol Building at 1:00 p.m.

ROLL CALL: Senator Galt excused. All other members present.

DISPOSITION OF SB 158: Senator Carroll Graham, District 29, introduced SB 158. He pointed out that the reason behind the bill was the problem with scabies, relative to cattle shipped in from Nebraska. The Department of Livestock felt they needed an administrative law to control these problems, not just the rules they now had. The Department of Livestock had been challenged in court over the scabies problem.

Dr. Jim Glosser, Administrator, Montana Department of Livestock, explained that the Department had been challenged in court and that they needed a law, rather than a ruling, that clearly points out that a Montana resident is responsible for the permit. This gives the Department the ability to promulgate, administer and enforce rules necessary to implement the permit or certificate. They could then promulgate to the owner of that permit before the animals ever come into the state. They have had five major incidents in court and they need a provision in the law so that they will be able to recover the money involved in their quarantine. He said the bill clearly outlines proceedures the Department must have to work from. He asked for an immediate effective date to allow for the heavy import which commences early in June. The present rule takes six weeks to two months for the information they need. This bill will cut the time to at least ten to fifteen days so they will know a lot sooner when the cattle will be coming into the state. Statement attached.

Mons Teigen, representing the Montana Stockgrowers and the Cowbelles, said both groups were in favor of this bill. They were aware of the problems and see this as a means to avoid future problems. They hope the Department of Livestock will be able to keep up the good job they are doing.

Bob Barthelmess, Chairman, Board of Livestock, said it was one of the more significant things that has happened. Once the permit is applied for, it would indicate what livestock are coming into the state and where they are coming from. They can then go to the map and see exactly where things are. The rule has caused fines and he felt this law important.

Dr. Glosser spoke for Mr. Tom Averil, Red Lodge, Montana, owner and proprietor of a zoo, in that area who was concerned because he thought the bill wouldn't let him bring his animals into Montana. He was critical that his zebras should be bled

for equine anemia or encephalitis, etc. and he was not in favor of this bill.

Senator Graham read a letter from former Senator Bill Lowe, Billings, who was concerned that this bill would include wild geese and other migratory birds. He didn't feel the migratory birds should be included in this bill.

Dr. Glosser explained it was intended for rare and exotic animals as the Department wants to know where they are in case of outbreaks of disease. He didn't think they could do much about migratory birds.

There being no further proponents or opponents, discussion followed.

Senator Aklestad questioned p. 4, lines 11 thru 16 relative to first mortgages. Dr. Glosser said this was taken out of Board rules and overturned by a judge. The lien was imposed so they could hold movement on the animals until the Department could recover their expenses. He couldn't answer technical questions in regard to this. This bill did not supersede a first mortgage. The Board did not want to get into a situation like that.

SB 158 is being held in Committee for a Statement of Intent.

DISPOSITION OF SB 136: Mons Teigen, Montana Stockgrowers Association and Secretary of the Montana Lands Council, said they had held the fee from 5¢ to 10¢ for a good many years, and now it was increasing to 15¢ so it attributed to the Montana Grazing Association and their ability to keep their expenses down. He said the DNRC had expenses involved for conducting meetings, holding hearings, settling disputes, etc., and the increase was needed as their expenses had gone up.

Ray Beck, Montana Association of State Grazing Districts, said they had met and voted in favor of raising the fee from 10¢ to 15¢ because of the impact being put upon grazing districts. He said the Montana Association would like to be shown on record in support of SB 136. Statement attached.

There were no further proponents or opponents.

Senator Conover moved DO PASS on SB 136.

Senator Kolstad asked whether any grazing districts opposed this increase.

Mr. Beck didn't think so, but he hadn't contacted every individual district.

Motion carried unanimously.

There being no further business, the meeting was adjourned.

Senator Allen Kolstad, V.Chrm

ROLL CALL

AGRICULTURE COMMITTEE

47 th LEGISLATIVE SESSION - - 1981 Date Jan. 23, 1981

NAME	PRESENT	ABSENT	EXCUSED
GALT, Jack E.		excused	
KOLSTAD, Allen C.	✓		
AKLESTAD, Gary C.	✓		
OCHSNER, J. Donald	✓		
GRAHAM, Carroll	✓		
BOYLAN, Paul F.	✓		
CONOVER, Max	✓		
ECK, Dorothy	✓		
LEE, Gary	✓		

Each day attach to minutes.

MONTANA DEPARTMENT OF LIVESTOCK

THOMAS L. JUDGE, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

(406) 449-2043

HELENA, MONTANA 59601

STATEMENT OUTLINING THE BACKGROUND AND RATIONALE FOR THE ENACTMENT OF SENATE BILL 158 - THE IMPORT BILL

Prior to 1978 the Department of Livestock issued permits on animals entering Montana on a very limited basis, ie. special disease conditions or emergency conditions. It relied totally on the receipt of health certificates from the state of origin for knowledge of shipment and health status of the consignments. The average number of consignments entering Montana amounted to approximately 5,000 per year based on health certificate information.

This system was not adequate since several consignments per year did not meet the Animal Health requirements as outlined in Montana law or rules. Moreover, the Department did not receive these health certificates from other states for at least two weeks and in some instances up to three months before knowledge of their entry was known.

In the spring of 1978, when cattle scabies was spreading uncontrolled throughout the western United States, the Board of Livestock adopted a rule requiring that a permit must be obtained from the Department before any animal was allowed to enter the state. This rule was adopted under the Montana Administrative Procedures Act under the provisions outlined in the Montana Administrative Act and is in force today. The rationale for the permit requirement was based upon two important factors:

1. It would allow the Department to notify the importer of Montana's Animal Health requirements before entry. This would greatly reduce the number of violations which required correction by the Department through inspection, treatment or other means. This results in a reduction in the Department's costs.

2. It would allow the Animal Health Division staff to require treatment of animals for a disease condition, such as cattle exposed to scabies, before they entered the state and mixed with native animals, thereby helping to eliminate the spread of disease.

This program has been very successful to date, in that Montana has remained scabies free while the adjoining states have experienced one or more outbreaks of scabies during the time that Montana implemented the permit system. Moreover, the Department has approved the surveillance of animals entering the state since it has issued on the average of 6,350 permits per year since 1978.

In general, compliance with this rule has been very good. However, in five instances, violations have resulted in court cases. In four of these, the violator was found innocent on the basis that this requirement was an administrative rule which poorly outlined the responsibilities of the importer in obtaining the permit and it was not the intent of the citizenry of Montana since it was not a statute.

Specific provisions in this bill are as follows:

1. In the instance of biologics, any biologic licensed by the USDA are exempt from the requirement of permits.

2. Semen permits are presently required on all semen intended for distribution and sale in the State of Montana. Semen collected for an individual and used in his own herd is exempt from this requirement.

3. The proposed bill clearly outlines the responsibility for acquiring a permit to the consignee who must be in Montana to receive the shipment.

4. The bill clearly outlines the Departmental powers for collecting fees when a consignment illegally enters the state, ie. inspection, dipping or other procedures.

5. There is an immediate effective date to allow for the heavy import season which commences in April each year.

JWG:nh

DATE June 23, 1981

COMMITTEE ON AGRICULTURE BILL NO. SB136 & SB158

Please PRINT your name

VISITOR'S REGISTER

NAME	REPRESENTING	Check One: Support SB 136	Support SB 158	Oppose SB 136	Oppose SB 13
Ray Beck	MT Cattle & State Cattlemen's Assn	X			
Mons Teigen	MT Stockgrowers & Cowbelles	X	X		
[illegible]	MT Dept of Livestock		X		
Pat Bartholomew	Dept of Livestock				
Jerry Epps	Dept of Livestock		X		
Ethel Parker	Self		X		
Don Herzog	Dept. of Livestock		X		
Clara Simons	Self		X		
Averill Keller	Self				
Vern Keller	Dept. of Livestock				
Teri Simons	Dept of Livestock				
Ralph J Parker	" "		X		

(Please leave prepared statement with Secretary)

MINUTES OF THE MEETING
AGRICULTURE, LIVESTOCK & IRRIGATION
MONTANA STATE CAPITOL

January 28, 1981

The Agriculture, Livestock & Irrigation Committee meeting was called to order on the above date, in Room 415 of the State Capitol Building, at 1:00 p.m.

ROLL CALL: Senator Lee absent, all other members present.

CONSIDERATION OF SENATE BILL 176: Senator Stimatz, District 43, introduced the bill at the request of the Department of Natural Resources and Conservation. He said the bill made minor changes in permit requirements for water regulations to cut costs and protect existing water rights. He offered the following amendments, due to an error in preparing the bill: Title: page 2, line 1, strike "AND 85-2-124,"; page 9 strike everything beginning on line 14, page 9 taking out the entire section through line 13 on page 12.

Gary Fritz, Administrator, Water Resources Division, Department of Natural Resources and Conservation, passed out copies of testimony showing Department additions replacing the above deletions to the bill. Testimony attached.

He said it was the intent of SB 176 to make minor amendments in the water law to improve processing of water right applications, cut taxpayer costs and protect existing rights. Testimony attached.

Mr. Fritz then went over the attachments with Committee members. He explained page 2, about line 17 would better protect small groundwater users because this allows them to make better records of small groundwater operations. It would also put the burden on the person taking the groundwater to make sure his water right applications are correct.

On page 6, lines 7 and 8, the Legislative Council had not requested this change and he recommended the change be stricken.

He asked to omit all of page 9, starting with line 14 thru line 13, page 12 and replace it with Attachment 2.

OPPONENTS: Bill Sternhagen, representing the Northwest Mining Association, said the Association has 2500 members and about 450 of them are Montana people. While he did not oppose Senate Bill 176, he said the 240 days on page 6, line 20 would add two months to the delays they already have getting a permit request and asked that this be changed back to 180 days.

Mr. Fritz said this was changed from 180 to 240 days because it gave the DNRC more time to work with the water right applicant and the objector. He felt this better than putting people into an adverse situation and the extra 60 days

misdated / should be 1/28/1981

domestic water, MacIntyre said the law says you don't have to do that. It is a cheap form of insurance, but an attorney, down the line, would cost more.

Senator Galt suggested Senator Stimatz and DNRC people get together with the Legislative Council representative and the secretary and get the amendments drawn up and the Committee would act on SB 176 on Friday.

DISPOSITION OF SB 158: Senator Galt turned the chair over to Senator Kolstad.

Senator Graham moved the Statement of Intent for SB 158 be accepted. Motion carried unanimously.

Doctor Brad Newcomb, Department of Livestock, reviewed the amendments with the Committee. He said the Department of Livestock did not intend USDA licensed biologics to be included in this bill and asked this removed. In Section 3, page 2, line 19, he asked for deletion of lines 19 and 20. This allows USDA biologics to enter without a permit. Amendments attached.

Senator Aklestad moved the amendments. Motion carried unanimously.

Senator Conover moved SB 176, as amended DO PASS. Motion carried unanimously.

There being no further business, meeting adjourned.

Senator Jack Galt, Chairman

ROLL CALL

AGRICULTURE COMMITTEE

47 th LEGISLATIVE SESSION - - 1981 Date JAN. 28

NAME	PRESENT	ABSENT	EXCUSED
GALT, Jack E.	✓		
KOLSTAD, Allen C.	✓		
AKLESTAD, Gary C.	✓		
OCHSNER, J. Donald	✓		
GRAHAM, Carroll	✓		
BOYLAN, Paul F.	✓		
CONOVER, Max	✓		
ECK, Dorothy	✓		
LEE, Gary		✓	

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 28 19 81

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration SENATE Bill No. 158

Respectfully report as follows: That SENATE Bill No. 158

be amended as follows:

1. Page 1, line 7.
Following: "THE"
Insert: "PERMIT OR"

2. Page 2, lines 16 and 17.
Following: "provided in"
Strike: "subsection (4), in all cases,"
Insert: "subsection (6)"

3. Page 2, lines 19 and 20.
Following: "certificate."
Strike: lines 19 and 20 in their entirety
Insert: "(2) The department shall issue a permit if no significant danger to the public health will ensue upon importation of the animal into the state.

(3) The department may waive the requirement for a health certificate or a permit as provided in subsection (7)."
Renumber: subsequent subsections
~~AND AS~~

(Continued)

Chairman.

STATE PUB. CO.
Helena, Mont.

January 28 19 81

4. Page 3, line 13.
Following: "certificate"
Insert: "or a permit"

5. Page 4, line 14.
Following: line 13
Strike: "4"
Insert: "5"

And, as so amended
DO PASS

STATEMENT OF INTENT ATTACHED

B.A.

JACK GALT, Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

January 28 19 81

MR. PRESIDENT

We, your committee on AGRICULTURE, LIVESTOCK & IRRIGATION

having had under consideration STATEMENT OF INTENT, SENATE Bill No. 158

Respectfully report as follows: That STATEMENT OF INTENT, SENATE Bill No. 158 be adopted.

STATEMENT OF INTENT RE: SB 158

A Statement of Intent is required for this bill because it delegates rulemaking authority to the Department of Livestock in Section 8.

It is the intent of this bill that the Department maintain its present rules, and update them when necessary, regarding the importation of animals, animal semen, and animal biologics. However, these rules should be reviewed to ensure that they are in compliance with this bill and to eliminate any redundancy created by passage of this bill.

~~XXXXX~~

First adopted by the Senate Agriculture, Livestock and Irrigation Committee on the 28th day of January 1981.

JACK GALT, Chairman.

STATE PUB. CO.
Helena, Mont.

Attachment 3

DRAFT SUBJECT TO COMMITTEE APPROVAL

STATEMENT OF INTENT FOR SB 158:

A Statement of Intent is required for this bill because it delegates rulemaking authority to the Department of Livestock in Section 8.

It is the intent of this bill that the Department maintain its present rules, and update them when necessary, regarding the importation of animals, animal semen, and animal biologics. However, these rules should be reviewed to ensure that they are in compliance with this bill and to eliminate any redundancy created by passage of this bill.

Attachment 4

DRAFT, Subject to
Committee Approval

AMENDMENTS TO SB 158

1. Page 1, line 7.
Following: "THE"
Insert: "PERMIT OR"

2. Page 2, lines 16 and 17.
Following: "provided in"
Strike: "subsection (4), in all cases,"
Insert: "subsection 6"

3. Page 2, lines 19 and 20.
Following: "certificate."
Strike: lines 19 and 20 in their entirety
Insert: "(2) The department shall issue a permit if no significant danger to the public health will ensue upon importation of the animal into the state.
(3) The department may waive the requirement for a health certificate or a permit as provided in subsection (7)."
Renumber: subsequent subsections.

4. Page 3, line 13.
Following: "certificate"
Insert: "or a permit"

5. Page 4, line 14.
Following: line 13
Strike: "4"
Insert: "5"

And, as so amended
DO PASS

THE MINUTES OF THE MEETING OF THE AGRICULTURE COMMITTEE
March 2, 1981

The meeting was called to order by CHAIRMAN CARL SMITH on Monday, March 2, 1981 in Room 431 of the Capitol at 12:30 p.m.

Roll call was taken and all members were present but REPRESENTATIVES ELLERD, RYAN and FEDA who were excused.

SENATOR BOYLAN presented SENATE BILL 349 and the STATEMENT OF INTENT (EXHIBIT A), "AN ACT REVISING THE LAW RELATING TO SEED POTATOES; PROVIDING FOR STANDARD GRADES OF SEED POTATOES; REGULATING THE SHIPMENT OF SEED POTATOES; AMENDING SECTION 80-3-101, MCA."

Senator Boylan indicated to the Committee that they were having trouble with this Bill in that Mike Koehnke wished to add amendments, and that these said amendments had not been agreed upon. It was suggested by SENATOR BOYLAN that if it be the wishes of the Committee they could table this bill.

REPRESENTATIVE CONROY opened SENATE BILL 158 (EXHIBIT B) for SENATOR GRAHAM in his absence.

DR. GLOSSER spoke as a proponent and presented the bill in his and the Department of Livestock's view.

MONS TEIGEN of the Montana Stockgrowers and Cowbelles and Woolgrowers,spoke in support of SENATE BILL 158. He stated that this Bill puts the law into statute, which is necessary for enforcement.

JO BRUNNER representing W.I.F.E. asked for a 'do pass' on Senate Bill 158.

SENATOR BRUCE CRIPPEN spoke, saying he was speaking neither as an opponent or proponent, but representing former Senator Lowe, who has a game farm out of Big Timber. The concern was how the bill would apply to agriculturalists, particularly those with game birds. Besides, there is duplication that must be complied with under the federal law. A suggested amendment was given; to strike "and other birds"; shown on page 1, line 20.

DR. GLOSSER addressed that amendment, stating that it is not the intention of this bill to have any effect upon those birds that migrate into our state, but, that the bill was directed to poultry. DR. GLOSSER said that the concern was birds like parakeets that carry diseases into the state of Montana and alsoconcerned with diseases such as Newcastles disease as they had in Florida that would infect poultry.

DR. GLOSSER stated that the federal government does inspection at the point of origin. This Bill is not interested in paper work but the safety of livestock.

REPRESENTATIVE BENGSTON questioned the word "poultry".

DR. GLOSSER stated that poultry means, in this case, any domestic bird for production. (EXHIBIT C was presented)

REPRESENTATIVE ROBBINS asked if these fees were paid for by the shipper.

DR. GLOSSER indicated that this has not been an increase cost to the department. That they have been able to implement permits they have been able to change direction of the program.

REPRESENTATIVE BENGSTON asked Senator Crippen about the migratory birds and SENATOR CRIPPEN stated that they were not concerned about the word 'poultry' in the bill. He said that rules were not what they were after but would like their suggested amendment in the Bill.

In response to REPRESENTATIVE CONROY's remark, DR. GLOSSER said that whenever there is USDA inspections in nonconcentrated areas they are not trying to add duplication and paper work. That they have no control over migratory birds, but if there are confined birds as on preserves that would contact diseases, they would want to know where the diseases originated.

The meeting went into EXECUTIVE SESSION:

It was MOVED by REPRESENTATIVE CONROY to TABLE S.B. 349. MOTION PASSED.

REPRESENTATIVE CONROY MOVED that the STATEMENT OF INTENT and SENATE BILL 158 DO PASS.

DISCUSSION was held regarding this bill and REPRESENTATIVE CONROY elaborated on the problem in Big Horn County that produced this bill, saying illegal entry of cattle into that county without a health inspection from the department; and due to the ineffectiveness of the rule making, the suit against the offenders would not stick, and Bill Lowe's concerns were unfounded.
MOTION PASSED.

It was announced that REPRESENTATIVE CONROY will carry SENATE BILL 158 to the floor of the House, and REPRESENTATIVE ERNST will carry SENATE BILL 4.

The meeting adjourned at 1:55 p.m.

Carl M Smith

CARL SMITH, CHAIRMAN

lmw

STATEMENT OF INTENT

SENATE BILL 158

Senate Agriculture, Livestock and Irrigation Committee

A Statement of Intent is required for this bill because it delegates rulemaking authority to the Department of Livestock in Section 8.

It is the intent of this bill that the Department maintain its present rules, and update them when necessary, regarding the importation of animals, animal semen, and animal biologics. However, these rules should be reviewed to ensure that they are in compliance with this bill and to eliminate any redundancy created by passage of this bill.

First adopted by the Senate Agriculture, Livestock and Irrigation Committee on the 28th day of January 1981.

SENATE BILL NO. 158

INTRODUCED BY GRAHAM

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE APPLICATION FOR AND THE POSSESSION OF A PERMIT AND A HEALTH CERTIFICATE, UNLESS THE PERMIT OR CERTIFICATE IS WAIVED, BEFORE CERTAIN ANIMALS, ANIMAL SEMEN, OR ANIMAL BIOLOGICS MAY BE IMPORTED INTO MONTANA; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This part may be cited as the "Animal Importation Permit and Health Certificate Act of 1981".

Section 2. Definitions. As used in this part, the following definitions apply:

(1) "Animals" means livestock, dogs, cats, rabbits, rodents, game animals, fur-bearing and wild animals, and poultry and other birds.

(2) "Biologics" means medicinal preparations made from living organisms and their products. It includes but is not limited to serums, vaccines, antigens, and antitoxins.

(3) "Department" means the department of livestock.

(4) "Health certificate" means a legible record written on an official health certificate form of the state of origin or on an equivalent form of the U.S. department of agriculture attesting that the animals, animal semen, or animal biologics described thereon have been visually inspected by a federally accredited veterinarian and found to meet the entry requirements of the state of Montana.

(5) "Livestock" means cattle, horses, mules, asses, sheep, swine, and goats.

(6) "Permit" means an official document issued by the department after proper application that allows the movement of animals, animal semen, or animal biologics into Montana.

(7) "Poultry" means domesticated birds, including but not limited to chickens, turkeys, ducks, geese, guinea fowl, pigeons, and pheasants.

Section 3. Documents required for importation -- exemption. (1) Except as provided in ~~subsection (4), in all cases~~ SUBSECTION (6) no animal, animal semen, or animal biologic may be brought into the state without a permit and also a health certificate. ~~The health certificate, but not the permit, may be waived by the department as provided in subsection (5).~~

(2) THE DEPARTMENT SHALL ISSUE A PERMIT IF NO SIGNIFICANT DANGER TO THE PUBLIC HEALTH WILL ENSUE UPON IMPORTATION OF THE ANIMAL INTO THE STATE.

(3) THE DEPARTMENT MAY WAIVE THE REQUIREMENT FOR A

HEALTH CERTIFICATE OR A PERMIT AS PROVIDED IN SUBSECTION (7).

~~(2)~~(4) The requirements of subsection (1) apply regardless of species, breed, sex, class, age, point of origin, place of destination, or purpose of movement.

~~(3)~~(5) All required documents must be attached to the waybill or be in possession of the driver of the transporting vehicle or of the person in charge of the animals. When a single permit or health certificate is issued for animals being moved in more than one vehicle, the driver of each vehicle shall have in his possession a copy of the permit and, where applicable, a health certificate.

~~(4)~~(6) Animals, animal semen, or animal biologics being moved through the state with no intent to unload or deliver in the state are exempted from this part. In an emergency situation, such transitory cargo may be unloaded in compliance with the quarantine rules promulgated by the department.

~~(5)~~(7) A waiver of the requirement for a health certificate OR AN PERMIT shall be based upon evidence that there will be no significant danger to the public health if the exemption is granted.

Section 4. Quarantine for illegal entry -- liability for expenses. (1) Animals, animal semen, or animal biologics which enter the state of Montana without the required

importation papers or in violation of any rules of the department shall be held in quarantine at the risk of the owner.

(2) The quarantine may be released only after the department has been satisfied, by appropriate means, that the animals, animal semen, or animal biologics under quarantine meet the requirements of law and the rules of the department.

(3) The owner of animals, animal semen, or animal biologics quarantined under this part is liable for all department expenses resulting from that quarantine except the expense of the salary of the supervising officer representing the department. Expenses include, but are not limited to, the expense of inspecting, testing, supervision of quarantine, supervision of dipping, supervision of disinfection, supervision of treatment, and laboratory testing.

Section 5. Lien resulting from quarantine -- foreclosure of lien. (1) In accordance with the provisions of 81-2-109, the expenses of quarantine detailed in [section 4] are a lien on the animals, semen, or biologics and the department may retain possession of them until the charges and expenses are paid. The lien is dependent on possession and may be foreclosed in the name of the agent of the department by sale at public auction of the animals, semen,

or biologics or as much of them as may be necessary to pay the expenses.

(2) Posting notice for 10 days at three public places in the county is required prior to auction. The lien may also be foreclosed by filing an action against the owner of the property to recover the amount of charges and expenses in a court of competent jurisdiction.

Section 6. Consignment requirements. (1) All animals, animal semen, or animal biologics brought into Montana, other than transitory cargo, must be consigned to or in the care of a person, entity, or authorized agent of either located in Montana.

(2) The person, entity, or authorized agent must notify the department of its intent to receive any animals, animal semen, or animal biologics and is responsible for acquiring all required permits and ensuring that they are accompanied by all required health certificates.

(3) No person consigning, transporting, or receiving animals, animal semen, or animal biologics into Montana may authorize, order, or carry out any diversion of them or any portion thereof to a destination or consignee other than as set forth on the permit or health certificate without first obtaining written permission from the department.

Section 7. Department rulemaking power. The department may promulgate, administer, and enforce rules necessary to

implement this part.

Section 8. Penalty. A person convicted of violating [this act] shall be fined not more than $500, be imprisoned in the county jail for a term not to exceed 6 months, or both.

Section 9. Codification instruction. This act is intended to be codified as a new part in Title 81, chapter 2, and the provisions of Title 81, chapter 2, part 1, apply to this act.

Section 10. Effective date. This act is effective on passage and approval.

-End-

EXHIBIT C

NAME Lisa Grocer BILL No. SB 478

ADDRESS Bozeman, MT DATE 2/3/89

WHOM DO YOU REPRESENT Mid Rivers Telephone

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

See Exhibit A - Attached Outlining The Background & Factors For The Amendment of SB 478 - Support Bill

Represent Three Of 22 Rural Companies Providing Telephone Service In Eastern Montana.

FORM CS-34
1-81

STATEMENT OUTLINING THE BACKGROUND AND RATIONALE

FOR THE ENACTMENT OF SENATE BILL 158 - THE IMPORT BILL

Prior to 1978 the Department of Livestock issued permits on animals entering Montana on a very limited basis, ie. special disease conditions or emergency conditions. It relied totally on the receipt of health certificates from the state of origin for knowledge of shipment and health status of the consignments. The average number of consignments entering Montana amounted to approximately 5,000 per year based on health certificate information.

This system was not adequate since several consignments per year did not meet the Animal Health requirements as outlined in Montana law or rules. Moreover, the Department did not receive these health certificates from other states for at least two weeks and in some instances up to three months before knowledge of their entry was known.

In the spring of 1978, when cattle scabies was spreading uncontrolled through out the western United States, the Board of Livestock adopted a rule requiring that a permit must be obtained from the Department before any animal was allowed to enter the state. This rule was adopted under the Montana Administrative Procedures Act under the provisions outlined in the Montana Administrative Act and is in force today. The rationale for the permit requirement was based upon two important factors:

1. It would allow the Department to notify the importer of Montana's Animal Health requirements before entry. This would greatly reduce the number of violations which required correction by the Department through inspection treatment or other means, this results in a reduction in the Department's costs.

2. It would allow the Animal Health Division staff to require treatment of animals for a disease condition, such as cattle exposed to scabies, before they entered the state and mixed with native animals. Thereby helping to eliminate the spread of disease.

This program has been very successful to date, in that Montana has remained scabies free while the adjoining states have experienced one or more outbreaks of scabies during the time that Montana implemented the permit system. Moreover, the Department has approved the surveillance of animals entering the state since it has issued on the average of 6,350 permits per year since 1978.

In general, compliance with this rule has been very good. However, in five instances, violations have resulted in court cases. In four of these, the violator was found innocent on the basis that this requirement was an administrative rule which poorly outlined the responsibilities of the importer in obtaining the permit and it was not the intent of the citizenry of Montana since it was not a statute.

Specific provisions in this bill are as follows:

1. In the instance of biologics, any biologic licensed by the USDA are exempt from the requirement of permits.

2. Semen permits are presently required on all semen intended for distribution and sale in the State of Montana. Semen collected for an individual and used in his own herd is exempt from this requirement.

3. The proposed bill clearly outlines the responsibility for acquiring a permit to the consignee who must be in Montana to receive the shipment.

4. The bill clearly outlines the Departmental powers for collecting fees when a consignment illegally enters the state, ie. inspection, dipping or other procedures.

5. There is an immediate effective date to allow for the heavy import season which commences in April each year.

JWG:nh

STATEMENT OF INTENT

SENATE BILL 158

Senate Agriculture, Livestock and Irrigation Committee

A Statement of Intent is required for this bill because it delegates rulemaking authority to the Department of Livestock in Section 7.

It is the intent of this bill that the Department maintain its present rules, and update them when necessary, regarding the importation of animals, animal semen, and animal biologics. However, these rules should be reviewed to ensure that they are in compliance with this bill and to eliminate any redundancy created by passage of this bill.

First adopted by the Senate Agriculture, Livestock and Irrigation Committee on the 28th day of January 1981.

SENATE BILL NO. 158

INTRODUCED BY GRAHAM

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A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE APPLICATION FOR AND THE POSSESSION OF A PERMIT AND A HEALTH CERTIFICATE, UNLESS THE PERMIT OR CERTIFICATE IS WAIVED, BEFORE CERTAIN ANIMALS, ANIMAL SEMEN, OR ANIMAL BIOLOGICS MAY BE IMPORTED INTO MONTANA; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE."

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-End-